REPORTABLE

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **LPA NO. 622 OF 2006**

% **Date of Decision** : 10th July, 2007.

REHABILITATION MINISTRY EMPLOYEES
COOPERATIVE HOUSE BUILDING
SOCIEITY LTD. .... Appellants.
Through Mr. Anupam Dhar, in person.

VERSUS

TEHSILDAR & ORS. .... Respondents.
Through Mr. V.K. Tandon, Advocate for respondents 1-3.
Mr. Ajay Verma and Mr. Amit Mehra for respondent-4.
Mr.P.S. Bindra for respondent-5.

CORAM:

HON'BLE DR. JUSTICE MUKUNDAKAM SHARMA, CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV KHANNA

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not ?

3. Whether the judgment should be reported in the Digest ?

SANJIV KHANNA, J:

1. The appellant-Rehabilitation Ministry Employees' Cooperative House Building Society Ltd, by way of the present Letters Patent Appeal has challenged judgment dated 7th February, 2006 passed by the learned Single Judge disposing of Writ Petition (Civil) No. 9469/2005 filed by them.

2. By the impugned judgment, the learned Single Judge has examined various provisions of the Delhi Land Revenue Act, 1954 (hereinafter referred to as the Act, for short) and the relevant Rules and thereafter held that the revenue authorities after considering the relevant records relied upon by the parties shall demarcate the boundaries of the acquired and unacquired lands, if any, comprised in Khasra No. 180/137/3, Vill. Begumpur (Patti, Hameed Sarai). Parties have been given liberty to take recourse to statutory remedy, if any of them is aggrieved by the demarcation report. Encroachment, if any, noticed has also been directed to be removed in accordance with the provisions of the Act and the relevant Rules.

3. Learned counsel for the appellant had submitted that no such demarcation was required and should be permitted as the entire Khasra No.180/137/3 in Vill. Begumpur (Patti, Hameed Sarai) was acquired by two separate Notifications and awards, the last being Award No. 1595 dated 28th June, 1963 by which area of 1 bigha and 9 biswas was acquired. Reliance was also placed upon Jamabandi of the aforesaid village, as per which the total land comprised in Khasra No. 180/137/3 was 2 bighas and 3 biswas. The balance area, it was submitted was acquired earlier.

4. Learned counsel for the respondent no.5, on the other hand, submitted that the total land in Khasra No. 180/137/3 admeasured 3 bighas and 14 biswas out of which only 1 bigha and 14 biswas was acquired. He claimed that the respondent no.5 is the owner of 2 bighas of unacquired land located in the said Khasra. Reference in this regard was made to the reports of the Tehsildar filed pursuant to directions issued in a suit filed by the appellant herein before the Additional District Judge, Tis Hazari. The said reports

have been placed on record. Reference was also made to earlier notice issued by the S.D.M. for demarcation which could not be carried out because of technical reasons. Reliance was also placed upon the Order dated 6th October, 2005 passed in Writ Petition (Civil) Nos. 18816-17/2005.

5. Various disputed questions of fact have been raised in the present Appeal. It may be noticed here that the Delhi Development Authority had failed to file its response to the said Writ Petition as noticed by the learned Single Judge in the impugned judgment. However, the learned Single Judge had called for the original records of the Delhi Development Authority. As per the records only 3 biswas of land comprised in Khasra No. 180/137/3, Vill. Begumpur, (Patti, Hameed Sarai) post acquisition was handed over to the appellant-Society along with other lands for development as a residential colony. Other land comprised in Khasra No. 180/137/3 was not handed over to the appellant-Society. It is the case of the respondent no.5 that the entire land in

Khasra No. 180/137/3 was never acquired. In fact it is claimed that the respondent no.5 continues to be the owner of 2 bighas of land in the said Khasra. This is disputed by the appellant. There is dispute about the actual area comprised in Khasra No. 180/137/3. As per the appellant, the total area in the said Khasra was only 2 bighas and 3 biswas whereas as per the respondent no.5 the total area in the said Khasra comprised of 3 bighas and 14 biswas. It is the case of the respondent no.5 that demarcation was carried out and was done on 28th November, 1996 but the appellant-Society has continued to raise various objections. Demarcation report supports the claim of the respondent no.5. Reference in this regard as already stated above was made to the report of Tehsildar Hauz Khas which was submitted in the Court of Additional District and Civil Judge, Tis Hazari in the civil suit filed by the appellant-Society. The appellant-Society has protested and claimed land grabbing and fraudulent manipulation of revenue records. These aspects and contentions cannot be decided in the

present Appeal but under the procedure prescribed under the Act.

6. The appellant relied upon the Order dated 5th March, 1987. We have examined the said Order passed by Tehsildar Mehrauli, New Delhi in Case no. CG13/86 titled *Rehabilitation Ministry Employees Cooperative Housing Society Ltd versus Hem Chander*. The said Order specifically records that 2 bighas of Khasra No.180/137/3 have been shown as unacquired land in Khasra Girdawari being maintained in respect of the said Khasra under the Punjab Land Manual but there is some dispute about the area having been acquired out of the khasras including Khasra No. 180/137/3. He has held that he cannot go into this controversy and was deciding the issue only with regard to the actual possession of the land. The issue with regard to the acquisition and demarcation was left open. The said Order, therefore, does not come to the aid and help of the appellant-Society. Reliance placed upon the Order dated 3rd December, 2004 passed in Writ Petition (Civil) No. 1527/1994 is also of no assistance. The said

case was filed by one of the allottees of the plot which was located in Khasra No. 363/172/1. A third person who was claiming right over the said plot could not produce any documents as to how he claimed ownership on the land in Khasra No. 363/172/1 which was allotted to the society. As there had already been plotted development and the land had already been acquired by the Delhi Development Authority, prior to change in the revenue records, the Court did not rely upon the same and held that the record was of no consequence. The facts of the present case are different. As per the revenue records, the entire land located in Khasra No. 180/137/3 has not been acquired and there is some dispute whether or not the entire area in the aforesaid Khasra has been acquired. This is clear even from the Order dated 5th March, 1987 passed in the case filed by the appellant-Society against Mr. Hem Chander. Learned Single Judge has referred to Sections 16, 20, 22 and 28 of the Act as well as Rules 403 and 404 of the Delhi Land Revenue Rules, 1962. After examining the relevant

provisions, the learned Single Judge has held that post acquisition in terms of the mandate of Section 22 of the Act, relevant entries with regard to the acquisition, ownership and vesting of the land with the Government have to be made. Learned Single Judge has also recorded that it was not the case of the appellant-Society in the Writ Petition that the entire land of Vill. Begumpur was acquired. Thus, before the learned Single Judge, the appellant-Society had admitted that there were some unacquired land and to that extent the same is governed by the Revenue Laws. In these circumstances, when disputes relating to boundary of acquired and unacquired land is raised, the same has to be adjudicated and decided in accordance with the Act. As observed by the learned Single Judge, the dispute is not with regard to the land admitted to be acquired and utilised for colonisation but dispute is with regard to the boundaries of the unacquired land, if any, which continues to be governed by the provisions of the Act and the relevant Rules.

7. We also find that the learned Single Judge has issued necessary directions to protect the interest of the appellant-Society by giving directions that the revenue authorities would look into the revenue records and would also consider the Jamabandi produced by the Society as per which the total land comprised in Khasra No. 180/137/3 was only 2 bighas and 3 biswas. It may be stated here that the said Jamabandi was not filed along with the writ petition but photocopy of the same was filed along with the written synopsis. In fact in the writ petition, the appellant-Society had not disclosed the total area of land that comprised in Khasra No. 180/137/3, Vill. Begumpur (Patti, Hameed Sarai). In these circumstances, we find no cause and ground to interfere with the impugned judgment. We do not find any merit in the present Appeal and the same is accordingly dismissed. It is clarified that in case any of the parties is aggrieved by the demarcation report, they will be at liberty to take recourse to statutory remedies in accordance with law. While making demarcation, the revenue

authorities will also examine the records of the Delhi Development Authority and the contentions and issues raised by the appellant-Society. Notice will be issued by the Revenue Authorities to the Delhi Development Authority and Government of National Capital Territory of Delhi. It is also clarified that observations made in this order and the impugned order, will not be binding on the authorities who will independently examine the entire controversy without being influenced by the observations.

8. In the facts and circumstances of the case, there will be no order as to costs.

(SANJIV KHANNA)
JUDGE

(DR. MUKUNDAKAM SHARMA)
CHIEF JUSTICE

JULY 10th , 2007.
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